"IF WE ARE TO ACHIEVE OUR VISION OF A GREATER UTAH, WE MUST ACT. ACT NOW." [1]

ENVISIONING
CHANGE

SCHOOL CLIMATE & LAW ENFORCEMENT
R E F O R M   P R I O R I T I E S

INSPIRED BY MULTICULTURAL JUSTICE ADVOCATES

FEB 2021 // PREPARED BY THE UTAH DIVISION OF MULTICULTURAL AFFAIRS

Utah Division of
Multicultural Affairs

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-DR. MARTIN LUTHER KING JR.

EXECUTIVE SUMMARY

The Utah Division of Multicultural Affairs, the Multicultural Commission, and the Martin Luther King Jr. Human Rights Commission surveyed 60 community stakeholders involved in racial justice and advancing equity to compile a list of six priorities that are integral to transforming harmful systemic and institutional practices. These priorities in both school climate and law enforcement reform include suggested strategies to implement and advance reform. Consistently, community members shared they wanted to move beyond aspirational dialogues to see meaningful and systemic change. While racial equity and justice efforts are complex, layered and challenging, the goal of this report is to elevate the most pressing concerns of Utah's multicultural communities around policing and educational practices.

IMPROVE QUALITY OF EDUCATION FOR K-12 YOUTH OF COLOR

Students of color are not receiving the support they need from our education system. Schools with large minoritized populations disproportionately receive less resources than schools with a larger population of white students. In addition, the curriculum in schools do not reflect the lived experiences for students of color. We recommend:

- Coordinating efforts from the State down to local district levels to improve youth of color achievement gaps
- Creating written plans, with yearly measurable goals, to close the achievement gap
- Strengthening school, family, and community partnerships
- Implementing and supporting a Racial Equity Lens Framework
- Creating and overseeing an integrated, inclusive K-12 curricula
- Eliminating the disparity in disciplinary actions against students of color.

ENHANCE COMPREHENSIVE ADMINISTRATOR AND TEACHER TRAINING ON RACISM, BIAS, DIVERSITY, & INCLUSION

Students of color who have a teacher with a similar racial/ethnic background have better long-term educational outcomes; unfortunately, this is rare for students in Utah. Until we can diversify the educator workforce, educators should be better equipped to work with diverse student populations. We recommend:

- Supporting scholarships for teachers of color
- Developing recruitment and retention efforts for teachers of color in Utah
- Improving professional development training on race & equity.

END THE SCHOOL TO PRISON PIPELINE IN ALL UTAH SCHOOLS

Students of color are disproportionately referred to law enforcement for disciplinary incidents occurring in schools. A contributing factor to this issue is the presence of School Resource Officers (SROs) in schools and an increased reliance on law enforcement by school administrators. We recommend:

- Eliminating zero tolerance in schools
- Overseeing educational data collected and reported
- Educating students and families on their rights
- Mandating training and certifications for SROs
- Overseeing memorandums of understanding between SROs and schools
- Increasing adoption of restorative practices
- Prioritizing and investing in the health, safety, and emotional well-being of students.

PRIORITIZE NON-POLICE SOCIAL SERVICES AND USE LEAST AMOUNT OF FORCE WHEN POLICE ACTION IS NECESSARY

If our goal as a community is to prevent crime from happening, non-police social services should be prioritized over police resources. When crisis situations do occur, it should not fall on the shoulders of our police force; they cannot be educators, mental health providers, victim advocates, and medical providers in addition to their duties as officers. Other non-police services are better equipped to handle certain crises. When police action is called for, police need to be trained and always prepared to use the least amount of force necessary when responding to community members. We recommend:

- Requiring officers to use the least amount of force and amend the use-of-force statute to define when deadly force is "necessary"
- Requiring an "imminent" threat before officers may use deadly force
- Making the defense of justification unavailable when an officer's own criminal negligence created the necessity for use of deadly force
- Codifying a law enforcement officer's duty to intervene and report when another law enforcement officer uses excessive force
- Creating a Community Crisis Collaborative
- Increasing funding for non-police social services using a combination of re-allocated police funds and funding from the State Legislature, as opposed to just one or the other.

ENHANCE COMMUNITY POLICING EFFORTS

Increased, intentional, and non-enforcement contact with citizens reduces bias for both officers and the community. Officers should be continually trained and incentivized to problem solve with community members, using principles of cultural humility, to promote equitable treatment of citizens. Law enforcement policies need to change to ensure community policing is prioritized and not an afterthought. We recommend:

- Incentivizing community policing practices
- Diversifying candidates for the POST Council
- Collaborating on training opportunities with the Utah Commissions dedicated to address and elevate the needs of Multicultural Communities to state leaders.

ENSURE EFFECTIVE AND IMPARTIAL INVESTIGATIONS OF CRIMINAL JUSTICE ABUSES

There is a distressing lack of data around policing, particularly around instances of potential police misconduct. This makes it difficult to ascertain the scope of criminal justice abuses or identify precisely where areas for improvement need to occur. When investigations into law enforcement do occur, the public needs to be assured that there is enough information, legal protections for citizens, and professional distance between police and the investigators, to repair trust with the community. We recommend:

- Mandating that law enforcement agencies complete all internal investigations of alleged officer misconduct and require that sustained allegations are presumptively "public" under the Utah Governmental Records Access and Management Act (GRAMA)
- Creating a searchable statewide database for officers with sustained charges of excessive force, dishonesty, discrimination, or misconduct toward others based on any protected class, and make the records presumptively "public" under GRAMA
- Empowering Civilian Review Boards
- Mandating the collection and public reporting of law enforcement data
- Requiring the wearing of body cameras for all law enforcement agencies in Utah
- Requiring the release of body worn camera video within 5 days of the incident.

CONCLUSION

Our current system of education and law enforcement disproportionately impacts communities of color. As a state, we have recently affirmed that racism continues to impact our Black and Brown communities daily. We need to continue to build upon this moment, ensuring we turn these words into action. Our communities should not have to continue to struggle against systemic forces that are beyond any one individual's control. In order to do so we need to work together, people of color and allies alike. Our collective goals can be accomplished through collaborative efforts by communities, organizations, and the state to improve the quality of policing and school climate; and by creating an environment for families of all races and backgrounds to feel they belong, are welcomed, and valued.

AT A GLANCE:

SCHOOL CLIMATE & LAW ENFORCEMENT
REFORM PRIORITIES IN UTAH

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INTRODUCTION

In the summer of 2020 the world began, in earnest, to discuss the impact of race on society. Prompted by the images of the killing of George Floyd in police custody and spurred on by the millions of demonstrators around the globe, the disparate treatment of Black and Brown individuals could no longer be ignored. Across the nation, calls for reform of longstanding practices came from communities of color and allies alike. Locally, state leaders were prompted to reflect how racism and injustice affects everyone individually and collectively in our daily lives, but also to consider how it is uniquely felt by communities of color.

In response to this, on Wednesday, June 3, 2020, Governor Gary R. Herbert and Lt. Governor Spencer J. Cox asked the Utah Division of Multicultural Affairs (MCA), the Multicultural Commission (MCC) and Martin Luther King Jr. Human Rights Commission (MLKC) to convene an emergency meeting with stakeholders from Black and African American communities to hear their perspectives around police reform and discuss how we move forward. Consistently, community members shared they wanted to move beyond aspirational dialogues to see meaningful and systemic change in police engagement.

Governor Herbert and Lt. Governor Cox asked to reconvene a month later in order to share with all who attended what had been done and the next steps state leadership was committed to taking to help advance this conversation along with policy reform. State and community leadership recognized that law enforcement was not the only social system impacted by race, and efforts would need to be made on a broader scale to create change. This, along with many other community efforts, led to Governor Herbert signing the Utah Compact on Racial Equity, Diversity, and Inclusion on December 15, 2020. This compact was an acknowledgement by the state of the detrimental impact of racism, with a pledge to guide future policy decisions using a racial equity lens.

To help elevate the most pressing concerns of multicultural communities around systemic practices, MCA, MCC, and MLKC compiled a list of priorities that were identified by community stakeholders as integral to transforming harmful systemic and institutional practices. A survey was then created and distributed among community partners requesting that they rank 18 items in total, 11 for police reform and seven for education reform, in the order of priority they felt most critically needed to be addressed.

It is important to note that these items were not exhaustive but reflect topics that were consistently identified during various gatherings between law enforcement and diverse community members in Utah, including the June 3rd convening. These priorities were also adapted from "The People Speak: Forward Movement Now - The Utah Black Agenda," "New Era of Public Safety: An Advocacy Toolkit for Fair, Safe, and Effective Community Policing," and other published advice from nationally recognized organizations.

The responses submitted by 60 community stakeholders involved in racial justice and advancing equity in the state, helped identify the six priorities in this report, which include suggested strategies to implement and advance reform.

We recognize that the priorities identified in this report have been simplified and do not fully capture the depth and complexity of the proposed policy and systemic change needed to fully eliminate the historical inequities created by these practices. The goal of this effort is to present to the Governor, the Lt. Governor, and other reform minded stakeholders specific action items supported by community input that can help improve the quality of policing and school climate in the state of Utah.

Community input is critically important in order to advance priorities for change that reflect the needs of our diverse population. The purpose of this report is to help bolster initiatives that center and elevate community voices to ensure reform suggestions are inspired and informed by the communities most affected by existing policies.

We want to thank and acknowledge every stakeholder that attended meetings, participated in focused conversations, joined virtual events, and have a long-term investment in seeking and striving towards police and school climate reform in the state of Utah. Although racial equity and justice efforts are complex, layered and challenging, we look forward to advancing initiatives for change in collaboration with a cross-section of partners committed to creating a Utah where families of all races and backgrounds feel that they belong, are welcomed, and valued.

1 | SCHOOL CLIMATE REFORM

Education is the right of all children.[7] The opportunity to grow intellectually and personally in a school environment that is safe, tolerant, supportive, and nurturing is also a right to all children.[8] This is often not reality for children of color. The Dignity in Schools' Model Code on Education and Dignity highlights this fundamental issue:

> "While state constitutions afford protections for specific aspects of the right to education, and with a few exceptions attempt to establish some minimum standards, there is no fundamental right to education in the U.S. Constitution. Our current legal and policy framework falls significantly short of ensuring equal access to high quality education for all our children and young people. Consequently, our school systems are failing entire communities."[9]

With 22% of Utah's population consisting of racialized groups, our school system can do better for youth of color.[10] In 2018, statistics show 29% of Black students scored above an 18 on the ACT compared to 70.5% of white students. Additionally, 28.6% of Black students achieve third grade literacy compared to 54.6% white students. Black, Native American and Latino students have seen increases in their respective graduation rates from 2015-2019 but the figures are still behind that of white and Asian students.[11] In 2019, 74.8% of Black, 79.5% of Latino and 79.3% of Native American students graduated from high school compared to 89.7% of white and 91.4% of Asian students.[12]

> "A school climate that protects human dignity exists when students feel socially, emotionally and physically safe, when there is mutual respect between teachers, students, parents or guardians, and when students' self-expression and self-esteem are supported."[6]

DIGNITY IN SCHOOLS,
"INTRODUCTION AND FULL MODEL CODE",
MODEL SCHOOL CODE ON EDUCATION AND DIGNITY

Some of the causes of achievement gaps are general concerns in the Utah education system, which include insufficient curriculum supplies, high rates of teacher turnover, low-quality curriculum, older or lack of facilities, and high student-to-teacher ratios. These issues are often disproportionately found in communities of color, which often do not receive equitable resources.[13] In addition, students of color are disproportionately deprived of high-level courses and challenging curriculum, factors which are strongly related to achievement and educational opportunity. These students are tracked early on towards a lesser education.[14]

It is also important that children feel supported by cultural representation at school in the lessons and materials.

> "In order to fully realize the human right to education, all students must have access to materials, curricula, teaching practices and a school community that affirm and celebrate their varied identities and cultures. A culturally relevant school environment and curriculum means that all students would see themselves in the material they are learning and that their cultures' and communities' accomplishments are celebrated, their histories lifted up, and their stories told."[15]

This includes cultural representation in curriculum, teaching style, holiday and event observations, classroom artwork and decoration. More culturally congruent disciplinary practices should be utilized as well, such as conflict resolution, talking circles, restorative justice practices, and culturally responsive management techniques.[16]

Minoritized students face these challenges as well as other "opportunity gaps."[17] All schools are not equipped to address low-income home environments, poor nutrition and health, lack of English language proficiency, homelessness or temporary housing situations, negative stereotyping, and implicit bias.[18] These factors can impact students feeling unwelcome in schools, with a recent Davis School District survey finding that the majority of their racially and ethnically diverse students reporting not feeling safe or comfortable in school.[19] With half of Utah's population growth coming from minoritized populations in the next 40 years[20], it is imperative that our youth of color receive a safe, equitable, and quality education; not only to keep up with the economic demands for a more educated labor force, but to improve the quality of life for all Utahns.

1.1

IMPROVE QUALITY OF K-12 EDUCATION FOR YOUTH OF COLOR

CURRENT STATUS

The Leadership Conference on Civil and Human Rights highlights the need for "safe, healthy, and inclusive school environments" to facilitate learning. This is achieved by "comprehensive, multi-tiered systems of support; counseling; positive behavior supports; restorative justice programs; and trauma-informed care." [21]

The federal government attempted to capture these human rights principles in the education system with the Every Student Succeeds Act (ESSA) signed into law by President Barack Obama on December 10, 2015. ESSA "advances equity by upholding critical protections for America's disadvantaged and high-need students." [22] The current law departs from the hyper focus of standardized testing and school accountability of the No Child Left Behind Act, which ESSA repealed. Instead, ESSA provides states with greater flexibility in the selection of tests and accountability measures to indicate educational achievement. [23] The Trump Administration, however, has made significant changes to ESSA, particularly to state reporting requirements. [24]

These changes have not been well received by communities of color. National organizations like the National Association for the Advancement of Colored People (NAACP) note the original principles of ESSA stand on their own and should be modeled after. In a published ESSA Toolkit, the NAACP noted "administrations and legislation may change, but those of us working as advocates for our constituents must continue to promote equitable, effective public education for all students, including students of color and low-income students." [25] The toolkit outlines how ESSA can be utilized to benefit local schools and address education equity challenges. [26]

The State of Utah has made its own attempts at general educational reform. Notably, the Utah State Legislature in 2018 passed the Effective, Actionable, and Dynamic Education program (ULEAD). ULEAD is a "collaborative effort in research and innovation" between Utah education leaders, administrators, and teachers. [27] It serves as a resource clearinghouse to be used by Utah educators to share expertise and best practices.

While ULEAD has a focus on education for all, as well as promoting emotional, social, and physical safety in schools, there is little specific focus on race or equitable education in ULEAD general resources. ULEAD does provide the Utah Educational Leadership Toolkit Series that includes the Emphasizing Equitable and Culturally Responsive Practices toolkit, but this is promoted as a resource for current and future school principals.[28] In April 2020, the ULEAD Effectiveness and Innovation Working Summit report outlined the process of including schools in the summit to provide resources to "support demographically similar schools across the state."[29]

The Utah State Board of Education (USBE) has a vision to ensure "all Utah students are prepared to succeed."[30] Equity is defined by USBE as the "equitable distribution of resources" according to a student's needs, which help support their unique backgrounds.[31] Their strategic goals focus on early learning, personalized teaching and learning, safe and healthy schools, and effective educators and leaders. Closing achievement gaps affecting Utah's youth of color is a priority outlined by USBE.[32]

Local school districts have created some "hands-on" aids. For example, the Salt Lake City School District's Educational Equity Department provides links to resources about teaching tolerance, talking to children about race, and a calendar of observed cultural holidays and events.[33] The Davis School District's Educational Equity Department has a robust website with resources for school administrators and educators including information on equity, a Dr. Martin Luther King Jr. Speech Contest, multicultural student clubs throughout the district, and a Teacher Recruitment Scholarship for Diverse Students.[34]

Community organizations are also highly invested in improving the quality of education for our youth of color. The Utah Black Roundtable has produced possible points of action to address the "how" of equitable education in Utah. Dr. Brandi Burnell authored "The People Speak: Forward Movement Now" in 2017 with suggestions to achieve movement towards equity. University Neighborhood Partners is partnering with the Salt Lake City School District on a research project working to improve relationships between schools and families on the west side of Salt Lake, piloting School Community Councils.[35]

Many agencies, local organizations, communities, and students continue to identify and promote changes needed in the school system for students of color to thrive. What is needed now, is a strong commitment from the State to achieve the goals of the community. By implementing the following recommendations, we hope this will be a strong step towards moving our shared community vision for the future forward.

RECOMMENDATIONS

- **Coordinate efforts from the State down to local district levels to improve the achievement gaps for youth of color**

To create the systemic change that is needed, all levels of change need to be activated and in communication. School districts need the support of the state, the legislature, and local communities to succeed. State resources, policies, and school boards all need to be focused on providing an equitable education.

- **Create written plans, with yearly measurable goals, to close the achievement gap**

In addition to a coordination of efforts, there needs to be measures of accountability amongst the various State actors in education. Collective goals should be identified statewide, in addition to more individualized local plans. Incentives should then be provided to schools that are successful in meeting those goals, and assistance should be given to those who cannot.

- **Strengthen the School-Family-Community Partnerships**

School partnerships engaging parents and the larger community are correlated with a decrease in the achievement gap between students.[36] They are built on reciprocity among all three components and each entity is equal to one another. It moves away from school personnel being viewed as the sole experts, placing emphasis on those in positions of power. More resources need to be allocated towards this goal to achieve greater long-term impact.

- **Implement & Support a Racial Equity Lens Framework**

The Utah System of Higher Education adopted an equity lens framework in December 2020. This will reportedly be used as a tool to "to ensure all of our decisions, our strategies, our initiatives and our goals are staying true to the vision of equitable systemic change"[37]. Similarly, USBE adopted a resolution denouncing racism and embracing equity in Utah schools in January 2020. These value statements are important but they will only be meaningful if paired with tangible strategies that identify measurable outcomes.

It is critical to implement and support racial equity frameworks that track annual progress in reducing inequities, create accountability measures to encourage success, and help guide the decisions of educational leaders across institutions.[38]

- **Create and oversee an integrated, inclusive K-12 curricula**

The education system is often centered around a Eurocentric point of view.[39] It is difficult for students of color to identify or engage with a curriculum that does not reflect them. The creation of more inclusive curricula could increase a sense of belonging, develop a broader understanding of the world, and help develop empathy for others for all students.[40] For students of color, this could also improve learning outcomes, as demonstrated by the implementation of more inclusive courses in Arizona greatly increasing graduation rates. Oversight would be needed as implementation of this curricula could vary greatly amongst schools without built-in accountability.

- **Eliminate the disparity in disciplinary actions against students of color**

For our youth to benefit from an education, they need to be in the classroom. The detrimental impact of disproportionate disciplinary action will be further discussed in a later section.

1.2

ENHANCE COMPREHENSIVE ADMINISTRATOR AND TEACHER TRAINING ON RACISM, BIAS, DIVERSITY AND INCLUSION.

BACKGROUND

A social and emotional element of school also plays a key role in a student's development. A safe and supportive learning environment provides "a foundation for access to higher education, meaningful employment and full participation in society." [41]

There are many aspects that warrant a safe and supportive learning environment. For youth of color that can include seeing themselves in their teachers. According to the National Bureau of Economic Research, Black students who have a Black teacher in grades K-3 have an increased chance both of graduating from high school and going to college.[42] However, this is rare in Utah and Mountain West states. According to a 2018 report from the Brookings Institution published by the University of Nevada, Las Vegas, the ratio of white educators to youth of color continues to be stark, as the former comprised of over 90 percent of the share of educators in Utah from 1993-2016.[43]

Utah's population projections indicate growth of youth of color over the next fifty years.[44] The rate of teachers of color is currently not keeping pace. The Brookings report notes the potential practice of alternative certification programs for attracting teachers of color. The number of teachers of color using these types of programs has increased throughout the United States, yet decreased in the Mountain West.[45] Lastly, the Brookings report observed that the attrition rate of teachers of color in the Mountain West was three times higher than the rest of the country.[46]

While the teachers we do have are doing all they can with the resources provided, the lack of diverse cultural experiences within the profession can show up in schools. Studies show that "teachers are just as likely to have racial biases as non-teachers."[47] Researchers from Princeton and Tufts University analyzed data from the self-administered Implicit Association Tests. This data included 68,930 teachers with an average age of 35. The findings indicated that 77% of teachers demonstrated implicit bias. Further analysis demonstrated 30% showed explicit bias towards Black students. Bias in the classroom translates into lower expectations for youth of color achievement, low quality teaching methods, and harsher discipline.[48]

Utah's teachers recognize the harm racism and bias plays in the school system, with The Utah Education Association (UEA) stating:

"institutional racism is a reality and we must work to expose and eradicate it. We realize it is not enough to declare ourselves 'not racist.' We must all strive to become 'anti-racist.' When we see racism or implicit and explicit bias, we must call it out and shut it down in order to raise awareness and foster change."

Utah's teachers can play a large role in creating a safe and equitable classroom for students. They cannot do this alone, however, need support from administrators in creating this change. Educators at all levels need to work with the same background and goals in mind. As the UEA also states "with knowledgeable educators, trained in recognizing and confronting unjust policies and practices, we can and will make a difference."[49]

CURRENT STATUS

Training tools on the national, state and local levels exist to help teachers overcome bias and uphold the right of all students to have a safe and supportive learning environment.

The National Education Association (NEA) has a guide on Racial Profiling Curriculum and Resources to encourage dialogue on the subject between students, teachers, and parents.[50] NEA also has a Diversity Toolkit: Cultural Competence for Educators, which advances the idea that cultural competency is not a check-list. It requires continual education and application in the classroom in order to create a positive effect in the classroom.[51]

The UEA Human and Civil Rights Program has a Minority Involvement Plan for 2019-2020, intended to recruit and improve more involvement with teachers of color within UEA. Additionally, in April 2019, UEA created the Equity and Inclusion Task Force "to assess the needs of the UEA related to white-supremacy culture, including institutional racism" and "attitudes of UEA membership toward equity, justice, and inclusion."[52]

Individual school districts in Utah are making efforts to advance inclusion. Real Salt Lake, the formerly Utah Royals FC, and Real Monarchs are partnering with the Salt Lake City School District (SLCSD) to help fund the Cultural Competency Support Program. Trainings will strive to "ensure that the rich diversity that students bring to school is welcomed, honored, and respected with a commitment to creating opportunities for all students to access meaningful educational services."[53] The SLCSD's Educational Equity and Student Support Department will provide culturally inclusive education for faculty and staff through the program.

The Granite School District Educational Equity department also has a vision to "institutionalize equity in order to provide a quality and excellent education for all culturally and linguistically diverse students."[54] It offers a simple example of cultural competency in action on a day-to-day basis with a Facebook page that includes postings of school notices in multiple languages.[55]

Local organizations have created resources that educators can use in the classroom to engage students in cultural competency work. PBS Utah and the Utah Psychological Association, have compiled digestible resources geared towards teaching children about race.[56] PBS Utah produces "Let's Talk," a show geared towards talking to children about race.[57]

READ-U is a program organized by University of Utah professors Dr. Lauren Liang and Dr. Karen Tao to focus on "Reading with Empathy, Awareness, and Diversity with U" (READ-U). READ-U has book sets focused on helping children see themselves in literature as they explore self and life issues.[58] The book set lists are available to parents, teachers, and students. Book sets for "Positive Identity Formation: Thinking about Race, Ethnicity, & Identity," "Refugee Situations," and "Taking Action/Activists for Social Justice" are forthcoming.[59]

School districts and educators are both striving for a more comprehensive understanding of racism, bias, diversity, and inclusion in our school system. While admirable efforts are being made to move this work forward, this needs to be a continual practice to ensure our education system is equitably supporting Utah's youth.

RECOMMENDATIONS

- **Support scholarships for teachers of color**

In Utah, the framework for this is already in place in the form of The Teacher Recruitment Scholarship, which is designed to support diverse Utah high school graduates in becoming teachers.[60] Funding for this program, and others like it, should be expanded to better support our future teachers in their education.

- **Develop recruitment and retention efforts for teachers of color in Utah**

As stated by community advocate Betty Sawyer, "We have alternative paths for teacher licensure, however, we need a targeted effort to utilize this and other strategies to identify, recruit, hire, mentor/coach and increase Black staffing numbers." Increasing the number of teachers of color in Utah schools will not come organically, and we need to ensure they have the support they need when in schools.

- **Professional Development Training on Race & Equity**

Effective and ongoing anti-racist trainings should emphasize a systems-thinking approach, a willingness to experience discomfort, people telling their stories, and the idea that closure is rare.[61]

1.3

END THE SCHOOL TO PRISON PIPELINE IN ALL UTAH SCHOOLS

BACKGROUND

In the 1960s-1970s the role of police officers began to shift from order maintenance to crime-fighting.[62] Theories about crime punishment also began shifting at this time as individual states began exploring zero tolerance policies. Zero tolerance policies are rooted in "broken window" theory, the idea that "allowing minor infractions to occur encourages criminals to commit more serious offenses."[63] Zero tolerance policies were adopted on the federal level with the Reagan Administration's Anti-Drug Abuse Acts of 1986 and 1988. Additionally, millions of dollars from federal education programs were diverted to federal anti-drug campaign efforts in schools.[64]

In 1994, the Clinton Administration created the Guns Free School Act. This action required a one-year expulsion from school for possession of a firearm on school property. Further, in 1996, social scientist Dr. John Dilulio suggested the United States would see a surge in teenage "super-predators," an idea that advanced racialized subtext and that highly focused on the behavior of inner-city Black and Latino youth.[65] This notion was later reinforced after the Columbine High School tragedy in 1999 and lawmakers seized on the theory, implementing tough-on-crime legislation for juvenile offenders across the country. This resulted in the increase of police presence in institutions of education. From 1997-2008, the number of schools with full time law enforcement present on campus tripled.[66] Originally intended to combat more serious drug and weapons related offenses, over the past decades zero tolerance policies associated with federal mandates have blurred the lines between criminal justice and school discipline. School-related offenses such as not wearing a school uniform, having dyed hair, interrupting a school sporting event, or talking back to a teacher have been handled as criminal matters, creating a "school-to-prison pipeline."[67] Generally defined, the "school-to-prison pipeline is a social phenomenon where students become formally involved with the criminal justice system as a result of school politics that use law enforcement, rather than school discipline, as a way to address behavioral problems."[68]

This has particularly negative effects on youth of color. Civil Rights Data Collection data for the 2015-2016 school year shows that while Black students made up only 15% of total United States K-12 school enrollment, they made up 31% of referrals to law enforcement or school-related arrests.[69] The school-to-prison pipeline has negative effects on youth of color nationwide, and locally. These disparities are often seen in juvenile justice statistics. In Utah, the Relative Rate Index (RRI) statewide data for 2017 showed Black juvenile arrests to white juvenile arrests was 4 to 1.[70]

The reliance on law enforcement or School Resource Officers (SROs) by school districts to discipline students is deemed a contributing factor to the school-to-prison pipeline. Yet, according to the Education Commission of the States, in 2017-2018 almost "half of the nation's schools had an SRO, including 65% of middle schools and 75% of high schools, while another 15% of schools have a law enforcement (non-SRO) presence."[71]

CURRENT STATUS

In 2014, the Obama Administration, Federal Department of Education's Office for Civil Rights, and the Department of Justice issued a statement acknowledging the harms and racially biased nature of punitive discipline, encouraging schools to use alternatives disciplinary practices.[72] This led to at least 22 states, including Utah, introducing or passing legislation limiting the use of suspension or expulsion, instead encouraging the use of positive incentives, restorative justice, and support services.[73]

Several organizations across the nation advocate for the end of the school-to-prison pipeline by seeking to eliminate the use of "zero tolerance" policies as well as re-envisioning the role of SROs. Amongst them is the American Civil Liberties Union (ACLU), which is committed to challenging the school to prison pipeline through policy and legislative initiatives. The ACLU relies on research that law enforcement does not make children feel safe in institutions of education, and there is instead a critical need to cultivate healthy and productive relationships between students, educational and mental health staff, other students, and families. Data shows that the presence of school-based mental health providers not only improves outcomes for students, but can also improve overall school safety.[74]

"Schools with such services see improved attendance rates, better academic achievement, and higher graduation rates as well as lower rates of suspension, expulsion, and other disciplinary incidents...By contrast, there is no evidence that increased police presence in schools improves school safety. Indeed, in many cases, it causes harm."[75] The ACLU partnered with DoSomething to create a Safe Classroom Pledge to improve the educational environment for children.[76]

SROs are also addressed on the State level. In 2016, Governor Gary Herbert signed into law the "School Resource Officers" bill sponsored by Representative Sandra Hollins.[77] This law is an important first step towards addressing the issue of SROs in schools. School districts and law enforcement are now required to formally define the role of SROs, principals and SROs are required to attend training relevant to addressing the use of SROs, and this law aims to affirm a student's rights, amongst other things.[78]

In 2017, the Utah Juvenile Justice Working Group provided recommendations that became HB 239 Juvenile Justice Amendments.[79] The bill promoted public safety and accountability of juvenile offenders while also making improvements to the juvenile justice system "by expanding and strengthening effective early intervention and diversion, standardizing responses to reduce disparities based on race, ethnicity and geography, and reserving system resources for those youth who pose the highest risk to public safety."[80]

In the coming years, Utah's population is poised to become more diverse than it ever has before.

With state and local officials recognizing the disproportionate impact school discipline has on our youth of color, Utah has made efforts to correct this injustice. To continue building on these gains supporting the education of our youth, we propose strategies that both keep students safe and in school.

RECOMMENDATIONS

- **Eliminate Zero Tolerance in Schools**

While Utah has made progress towards eliminating zero tolerance policies at the state level, there is not enough information yet, to determine the impact of this legislation. We need to work to understand if the change in policy is truly creating a different outcome for student discipline practices. Individual schools have a lot of autonomy in how they discipline students and we need better data to understand what more may be needed at the community level.

- **Oversee data collected and reported by USBE, CCJJ, and other institutions**

In order to determine the most effective course and actions in our schools on cultural responsiveness, we need centralized, transparent data collection, disaggregated by race, socio-economic status, and gender and non-gender conforming identity. We need to develop a deeper understanding of when suspensions, and other school discipline, occurs in our schools. This will not only benefit communities, but schools themselves, as they could then improve campus climate and/or educational outcomes.

- **Educate students and families on their rights**

In Utah, SROs and schools are required to describe students' state and federal rights when contracting with an SRO. However, there is no requirement to help students know their rights or incentive to enforce these rights.

More time and resources should be given to ensure students and families know what rights they have in the schools. Students and families, not only school officials, should have the understanding to determine when they are being treated unfairly.

- **Mandate Training and Certifications for SROs**

The current law does have "training requirements" for SROs in Utah. However, the language is ambiguous and could allow SROs to avoid any training in working with multi-cultural populations or trainings designed to address the issue of the school-to-prison pipeline.[81] Different types and topics of trainings for SROs should be mandated, similar to other licensed professionals (for example, suicide prevention training for social workers).

- **Oversee MOU's between SROs and Schools**

The Leadership Conference on Education Fund published a 2019 report entitled Civil Rights Principles for Safe, Healthy, and Inclusive School Climates. Among the recommendations was the removal of SROs from schools all together. Understanding that this recommendation may not have complete support from school districts, law enforcement, and policy makers, the report suggests legislation to require schools to have a memorandum of understanding (MOU) that clearly defines the role of SROs on the specific district or school campus, drawing lines between school discipline and SRO discipline.[82] While Utah law currently does require an MOU, it leaves the language and enforcement of contracts up to local agencies. Without oversight, this provides the opportunity for some communities to not work to combat the overcriminalization of youth.[83]

- **Adoption of Restorative Practices**

Restorative practices (RP) "encompasses a growing social movement to institutionalize non-punitive, relationship-centered approaches for avoiding and addressing harm, responding to violations of legal and human rights, and collaboratively solving problems." RP is an alternative to school discipline being managed by SROs, suspension or expulsion and seeks to address the root cause of student behavior issues while maintaining healthy and safe relationships with the school and educators. Utah has a strong foundation of RP in the form of the Utah Youth Court Association. The expansion of these youth courts coupled with encouragement of other RP in schools would be another strong step towards the elimination of the school to prison pipeline.

- **Prioritize and invest in the health, safety, and emotional well-being of students**

Student behavior is positively impacted by teaching social and emotional learning competencies, providing access to mental health professionals and creating positive school climates.[84] This is particularly important when health support professionals in schools are frequently the first to see children who are sick, stressed, or traumatized — especially in low-income districts.[85] The ACLU estimates, however, that 14 million students are in schools with police but no counselor, nurse, psychologist, or social worker.[86] We need to invest in what we know works and ensure that funding is prioritized to hire culturally responsive, trauma informed mental and health professionals to provide needed support to students in crisis and foster feelings of safety both within and beyond the classroom.[87]

2 | LAW ENFORCEMENT
REFORM

Our system of education and law enforcement are currently inexorably tied together through the school to prison pipeline. Our youth, particularly youth of color, are impacted disproportionately in both systems. In Utah, students of color are 2.3 times more likely than white students to be disciplined at school. Of those, American Indian and Black students are approximately four times more likely to be referred to law enforcement than white students.[89] These students are the future of our communities and our state. They become our innovators, our leaders, and help to move Utah forward. Every child deserves an equitable opportunity to stay in school, stay in the community, and fulfill their potential.

Youth are not the only ones that are negatively impacted by our system of law enforcement. Many advocates have been calling for criminal justice reform for years, with multiple injustices committed around the country— injustices disproportionately impacting people of color.[90] Because of the impact policing has had on communities of color, there has long been a disconnect between law enforcement and the diverse communities they serve. A 2016 survey found that people of color are 20-40% less likely to have confidence in the police than white people and less than 50% of African Americans have confidence the police would treat them fairly.[91] There has been a need for a shift in law enforcement for many years; In 2020, perhaps nothing elevated those calls for change more than the killing of George Floyd.

"

"You say with education he'll make it but your stance says otherwise when you stand outside ready to grab his hand and guide him down the pipe with twenty-five to life."[88]

JALANI JOHNSON,
"CRACKED PIPELINE: A POEM ON THE SCHOOL-TO-PRISON PIPELINE", POLITICS AND ACTIVISM, ODYSSEY

While there was widespread public outrage of the treatment of George Floyd, he is far from the only victim of police misconduct. Philando Castile, Breonna Taylor, Ahmaud Arbery, Michael Brown, Tamir Rice, Eric Garner; these are just a few of the many people who have lost their lives due to police violence. Police misconduct cases all have different backstories, but when individuals die at the hands of police, they are disproportionately people of color.[92] Being a member of law enforcement is not an easy job anywhere in the world; however, in the United States police kill far more people than do police in other comparative countries.[93]

Locally, according to the Salt Lake Tribune, Utah experienced more fatal police shootings over the past five years than states with similar populations and the year 2020 tied for the most police shootings of citizens of any year on record[94]. Utah is not alone in their need for law enforcement reform and we don't yet know exactly what will work. With Black men in the United States having a 1 in 1000 risk of being killed by police in their lifetime, however, we do know our system of law enforcement needs to change.

PRIORITIZE NON-POLICE SOCIAL SERVICES & USE LEAST AMOUNT OF FORCE WHEN POLICE ACTION IS NECESSARY

BACKGROUND

Our goal as a society should be to not only appropriately respond in times of crisis during a criminal incident, but to prevent crime from occurring in the first place . To do this, we should be addressing the risk factors that contribute to crime in our community such as lack of housing, inequitable access to education and healthcare, and economic development, including jobs with a living wage.[95] These risk factors should not be addressed with more policing in communities already experiencing systemic and historical disadvantage. Other non-police resources are better equipped to negate these risk factors and in turn hopefully foster greater collaboration amongst communities. A more reciprocal relationship between the state and the people they serve can be a transformative process for all, if we ensure to elevate the voices of the marginalized and reinvest in harmed communities with social services that address root causes.[96]

However, these non-police social services are oftentimes not as available to civilians as they could, or should, be. Part of this can be attributed to discrepancies in the funding that police and non-police resources receive in general. The ACLU notes that, "since the 1980s, spending on law enforcement and our criminal legal system has dramatically outpaced that in community services such as housing, education, and violence prevention programs." One large-scale municipal example of this in the U.S. is within the City of Los Angeles's budget, which allocates about $1.9 billion to the police department, but only a combined $104 million to economic development, and housing and community investment.[97]

The increasing rise in funding for police during recent years, reflects an increased desire for community safety. While overall community safety would be better addressed through prevention efforts, there are times when police intervention is needed. In such instances, police should always use the least amount of force necessary to intervene.

The International Association of Chiefs of Police has described the use of force as the "amount of effort required by police to compel compliance by an unwilling subject."[98] Use of force follows a continuum that generally progresses as follows:[99]

1. **Officer Presence — No force is used.**
2. **Verbalization — Force is not physical.**
3. **Empty-Hand Control — Officers use bodily force to gain control of a situation.**
4. **Less-Lethal Methods — Officers use less-lethal technologies such as tasers or sprays.**
5. **Lethal Force — Officers use lethal weapons to gain control of a situation.**

Lethal use of force by an officer should always be the last resort and should never be taken lightly; one would also hope that the same level of decision making would be applied equally amongst suspects. A recent study from Columbia University, however, found that Black suspects are more than twice as likely to be killed by police as other racial or ethnic groups.[100] Latinx suspects are also more likely to be killed than white suspects during many types of police interactions.[101] An increase in non-police social services could prevent police from having to make these use of force decisions which can be subject to bias. Policies need to be in place to ensure that we do not lose any more lives at the hands of public servants. At the very least, however, police need to be better trained to ensure that their biases do not contribute to the escalation of force.

CURRENT STATUS
THE LAW
Broadly speaking, the use of force by law enforcement officers becomes necessary and is permitted under specific circumstances, such as in self-defense or in defense of another individual or group.[102]

When using deadly force, both officers and non-officers may legally do so under the following conditions:[103]

1. When an individual reasonably believes that force is necessary to defend the individual or another individual against the imminent use of unlawful force, or
2. When an individual reasonably believes that force is necessary to prevent death or serious bodily injury to the individual or another individual as a result of imminent use of unlawful force, or to prevent the commission of a forcible felony.[104]

In addition, there are three situations when officers may use deadly force, but non-officers may not:

1. When an individual is escaping arrest and the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury.
2. When the danger is not imminent, or
3. When the officer was the initial aggressor.

Police officers are not trained in the use of "chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint."[105] They are trained to always seek to de-escalate the situation, and whenever deciding what level of force to use, to ask themselves: Is it ethical? Is it logical? Is it practical?

De-escalation techniques are critical when working with people in crisis. Utah police officers are provided the opportunity to receive training in crisis intervention, some agencies even require it. However, it is difficult for all police officers to maintain enough training in crisis intervention while

also maintaining training in all their other duties. For this reason, many experts recommend an increase in non-police crisis resources. This way, police can be police, social workers can be social workers; and police are not required to try to be both and everything else in-between.

In addition, in Utah, there are a number of organizations and resources that already provide non-police services.[106] For example, for mental health crisis situations, The SafeUT Chat app offers real-time support and intervention in a fairly accessible manner, as does the UNI 24-hour Crisis Line. UNI can, in some cases, send mobile intervention teams for follow ups. For situations involving domestic or sexual violence, the Utah Domestic Violence Coalition, as well as the Utah Coalition Against Sexual Assault and their 24-hour hotline provide support and resource referral for survivors all over the state. In addition, law enforcement agencies can deploy and utilize victim advocates to provide information, crisis management and support to survivors of crimes during their contact with police. For substance abuse situations, specifically in Salt Lake City, Odyssey House provides care and rehabilitation as an alternative to arrests or use of force.

While there is wide-ranging agreement for enhancing non-police crisis resources, there is still disagreement on how these enhancements ought to be funded. Funding for new or enhanced programs can come through five paths:
- New or increased taxes
- New or increased fees[107]
- Government debt (e.g. bonding)
- Redirecting funds that were previously used by other agencies or divisions
- Donations

National experts and advocates of enhancing non-police resources often recommend this be funded by redirecting funds from law enforcement. (This is the meaning of the now ubiquitous phrase, "defund the police.")[108] As the Brookings Institution points out: "[S]ome large municipalities with a history of police brutality have reallocated funds in line with the defund police movement. Los Angeles will have at least $100 million reallocated away from LAPD to programs for communities of color. San Francisco Mayor London Breed said that she will work with community groups to reprioritize funding. Baltimore City Council voted to reallocate $22 million away from the police department's fiscal budget for 2021, which is typically over $500 million. The city council plans to redirect the funding to recreational centers, trauma centers, and forgivable loans for Black-owned businesses."[109] These funding decisions were not made lightly, nor without contention. Yet, these decisions are supported by research, and perhaps more importantly, supported by Black and Brown communities most impacted by policing.

Finally, it is worth noting that the purpose behind these redirections is not as a punishment for law enforcement. Rather, the idea is that by enhancing non-police resources, the need for police resources will decline, thus justifying the redirection. With the reallocation of resources, Utah can show an investment in building on the strengths and future of our communities, particularly in those that have experienced the most historical harm from police engagement.

RECOMMENDATIONS

The Salt Lake County District Attorney's office created a 15-page document titled; "Policy Reform Ideas for Law Enforcement Use of Deadly Force" in July 2020. The brief noted that this list of possible reforms was developed "to provide many alternatives and points for discussion and debate in support of a crucial and long-delayed examination by policy makers, at all levels of government, of the appropriate balance between the sworn obligation of law enforcement to protect the public, on the one hand, and the constitutional and human rights of our residents and communities, on the other hand."[110] Several reform recommendations were similarly identified during the various community convenings in the summer of 2020. We have selected to include recommendations from the Salt Lake County District Attorney's brief to demonstrate that institutional support already exists to advance these reform priorities.

- **Require officers to use the least amount of force and amend the use-of-force statute to define when deadly force is "necessary"**

Current Utah law does not have a specific least amount of force requirement. Rather, "any person is justified in using any force, except deadly force, which he reasonably believes to be necessary to effect an arrest or to defend himself or another from bodily harm while making an arrest."[111] "Necessary" is not defined in the statute. In addition, the defense of justification is available when "necessary" to prevent death or serious bodily injury or to prevent escape in certain circumstances, yet what is "necessary" is not separately defined.[112] Clearly defining what is deemed "necessary" and requiring officers to engage situations using the "least" amount of force may prove fruitful in reducing harm to civilians.

Research shows that officers at agencies with stricter use-of-force policies are less likely to be killed, to kill others, or seriously injure themselves.[113]

- **Require an "imminent" threat before officers may use deadly force**

"The basic responsibility of police officers to protect life also requires that they exhaust all other reasonable means for apprehension and control before resorting to the use of firearms. Police officers are equipped with firearms as a means of last resort to protect themselves and others from the immediate threat of death or serious bodily injury."[114] Requiring an "imminent" threat before officers may use deadly force may be reasonable because when the posed danger is not imminent there may be time for officers to apprehend the suspect using less-than deadly methods.

- **Make the defense of justification unavailable when an officer's own criminal negligence created the necessity for use of deadly force[115]**

A possible reform is to eliminate an officer's justified use of deadly force if the officer unreasonably caused the need for it in the moments leading up to the incident. Currently, the defense of justification is available even if an officer's own criminal negligence leads to the situation, whether by identifying the wrong person as a suspect, by unnecessarily escalating an encounter, or otherwise.[116]

- **Codify a law enforcement officer's duty to intervene and report when another law enforcement officer uses excessive force**

In the infamous George Floyd case, three officers stood by as a fourth officer knelt on Floyd's neck for eight minutes, which led to his death. Numerous shocked bystanders witnessed the event, but given the situation, those other officers alone likely could have stopped the incident without themselves being injured.[117] An officer's duty to intervene may have saved George Floyd's life. "The United States Supreme Court has held that qualified immunity does not extend to officers who fail to intervene when a fellow officer uses excessive force or commits any other constitutional violation. The Utah Legislature could codify this requirement for intervention to prevent or stop another peace officer from using physical force that exceeds the degree offorce permitted."[118] Requiring that peace officers report excessive use of force will help address "the code of silence that undermines efforts to hold police accountable for abuse. Police officers who set a positive example by doing their job while dealing appropriately and respectfully with residents, intervening when fellow officers become abusive, and reporting violations when they do occur should be rewarded through preferred assignments and promotions to demonstrate that such officers will benefit professionally...Supervisors should stigmatize abuse, not those who report it."[119]

- **Create a Community Crisis Collaborative**

Per Crisis Support Solutions LLC,[120] a community crisis collaborative is a community-driven, response network that includes (but not limited to):

    i) First responders / emergency responders
    ii) Dispatch / 911 call operators
    iii) Chaplains / clergy / lay ministers

    iv) Victims' advocates
    v) Educators / school social workers
    vi) Medical and mental health professionals

The current 2-1-1 service is well suited for general inquiries about available services but is not set up to specifically respond to crises. Creating a more centralized, immediate response network makes it easier for people to get in touch with the services they need and faster.

- **Increase funding for non-police social services using a combination of re-allocated police funds and funding from the State Legislature, as opposed to just one or the other**

Non-police resources—such as social workers, mental health professionals, workforce services, homeless outreach, or drug rehabilitation—are the better option in a time of crisis. By enhancing non-police social services, crisis situations that require police action and intervention can be better prevented. There are many great Utah organizations doing incredible work in the community who would do even better with more funding. Shifting investments and redirecting resources from policing to services that effectively address underlying societal problems, such as social services, affordable housing, schools, community-based healthcare systems—especially mental health and voluntary drug treatment—and local economic development, would help improve public safety and community well-being overall.[121]

2.2
ENHANCE COMMUNITY POLICING EFFORTS

BACKGROUND

Community policing engages all community members in meaningful decision-making, implementation, and evaluation of departmental policies, practices, and priorities. Police leaders value community perspectives, especially of those most impacted by policing. It emphasizes prevention and problem-solving over arrests and criminalization. It promotes fair and equitable treatment of all community members and judicious use of resources to promote public safety rather than to criminalize minor offenses.[122] It does not emphasize quotas for stops or arrests.

Evidence suggests that encouraging officers to listen to citizens' views before making decisions, and to generally demonstrate an interest in working with members of a community, can be an effective intervention. A one-day training program based on these principles of procedural justice — a model of policing that focuses on respect, neutrality and transparency—was shown to reduce both citizen complaints and use of force by officers in the Chicago Police Department.[123]

Many of these same principles in community policing, are utilized in cultural humility. Cultural humility is an alternative goal to the more traditional model of developing cultural competency; the idea that one can learn enough about another culture to be competent in working with someone from that cultural background.[124] Rather than subscribe to the idea that you can ever learn 'enough', cultural humility recognizes that culture, and our own views of another culture, are not static. It encourages the practice of self-reflection, continual education, and the fostering of mutually beneficial relationships between people.[125]

Traditionally, law enforcement has relied on diversity trainings for officers to improve relations with marginalized communities, which generally strive to improve cultural competency versus humility. While there is certainly value in learning about other cultures, there is no demonstrated long-term impact of diversity trainings in reducing bias amongst officers.[126] Unfortunately, the research on this topic is in its infancy, with results of no impact potentially the result of inadequate training programs. Because of these limitations, efforts to abandon multicultural awareness trainings may be premature without first researching the impact of our current programming.

What the broader evidence does show however, are that increased, intentional, non-enforcement contact with citizens reduces bias for both officers and for the community.[127] Increasing community policing efforts would start providing spaces our communities need to heal. For police officers, more positive interactions with citizens also has the potential to reduce "compassion fatigue" which is the incapacity those supporting trauma victims may experience. Compassion fatigue contributes to burnout, both of which can lead to officers being more likely to make errors in critical incidents.[128]

To create a culture of community policing, there needs to be a total organizational commitment to these measures. Prioritizing community needs, and particularly communities of color that are most disproportionately impacted by policing, should be a continual focus of law enforcement. Developing cultural humility, and relationships with communities, takes both commitment and time. From training, hiring practices, incentives, and policies, we need to ensure that police are always working with communities, rather than against them.

CURRENT STATUS
STRUCTURE OF TRAINING
Training and certification for all police officers (both state and local) is overseen by the Peace Officers Standards and Training Division (POST). POST is led by a director who reports to the Commissioner of Public Safety. POST also has a seventeen-person advisory council. The council's duties include:

- Recommending the appointment of the POST director;[129]
- Approving subject material, instructors, and schedules of certified academies;[130]

- Issuing letters of caution, or suspending or revoking the certification of a peace officer[131] or dispatcher;[132]
- Advising the director on such issues as: minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy; (iii) minimum qualifications for instructors at a certified academy; (iv) the minimum basic training requirements that peace officers shall complete before receiving certification; (v) the minimum basic training requirements that dispatchers shall complete before receiving certification; and (vi) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications.[133]

Of the seventeen-person council, fourteen members are appointed by the governor[134] and serve four-year terms.[135]

In addition to a basic training course, all police officers must complete at least 40 hours of additional training each year. Currently, there are members of the legislature who are working on legislation that would mandate a minimum amount of de-escalation and/or implicit bias training each year.

CONTENT OF TRAINING

The current multicultural training for police officers is a five-hour class called "Community Relations" which was first developed by the University of Utah about 10 years ago. Every officer must complete this training. There is also an informal expert panel class featuring various leaders from multicultural communities. In this class, officers and panelists seek to better understand each other through frank discussions about their experiences.

The POST council recently approved an additional 30 hours of training. This includes training on procedural justice, trauma informed policing, unbiased policing (with an emphasis on overcoming bias under stress), and a capstone class that ties everything together.[136]

THE LAW

NO QUOTAS

In 2018, the Quotas for arrest, citation prohibited law was passed.[137] This law states that political subdivisions and law enforcement agencies "may not require or direct that a peace officer meet a law enforcement quota." This law was an important step toward enhancing community policing in the state because it relieves the pressure some officers may have felt to make arrests or give citations when they did not think it was necessary.

FINES

Local governments keep the fines that law enforcement officers distribute. This is even true when the fine is issued by the state-employed officers of the Utah Department of Public Safety.[138] There is evidence that some local governments use fines not merely as a deterrent to violators, but as a necessary source of revenue. For example, one town collected $220,000 in revenues from speeding

in one year—which made up 40% of the town's total revenues.[139] Without these funds, town leaders stated they would have to either reduce services from police and fire or raise property taxes. In 2016, a senate bill was presented that would have capped a local government's revenues from traffic fines at 25%. The bill did not pass.[140]

ASSET FORFEITURE

Current asset forfeiture law allows police officers to seize property "that has been used to facilitate the commission of a federal or state criminal offense and any proceeds of criminal activity."[141] This property may then be placed into a fund that grants funds for "crime prevention, crime victim reparations, and law enforcement activities."[142] In 2019, the fund awarded $1,053,186.[143] Furthermore, if the case is taken to federal, rather than state court, the local agency could receive 80% of the cash or property back.[144] The intention of this law is to make criminals, literally, pay for their crimes.

However, an unintended consequence is it can incentivize abuse. At least one Utah police officer reportedly admitted that from 2000-2004, when Utah's asset forfeiture law did not allow law enforcement to receive any of the funds, "[d]oing forfeiture [was] way down the line in [his] priorities."[145] The 2000-2004 moratorium occurred after a citizen ballot initiative that disallowed law enforcement from receiving any of the funds. The allowance was restored by the legislature in 2004.[146]

In 2019, a senate bill was presented that would have required all cases of asset forfeiture to first be screened in state court and would have eliminated the requirement that agencies must have contributed to the fund in the past year before it could receive a grant.[147] The bill did not pass.

After discussions with police officers and police leadership, it appears that some agencies and divisions are working hard to create incentives that encourage community policing, while others are still incentivizing less desirable behavior. For example, agencies striving toward a community policing culture grant employee appreciation awards based around the values of the agency, while other agencies still grant awards around things like most arrests or citations.

Agencies have also put some effort into programming designed to increase community engagement. The Salt Lake City Police Department for example, has a community intelligence unit who "...are a special unit devoted to grass-roots problem-solving within the community".[148] While this is certainly admirable, there are only seven officers in the entire unit to serve the city. These efforts should be the goal of every officer and not just a select few.

RECOMMENDATIONS

- **Incentivize Community Policing Practices**

Current practices often incentivize police to make arrests, give citations, or seize assets. Legislation should be passed to eliminate law enforcement benefits for these practices, instead incentivizing community policing efforts. Awards could be given to officers who exemplify community policing, or promotions based on community collaboration. Time could be allocated to all officers to attend community meetings, or volunteer at a local organization. Officers need to be consistently acknowledged for their positive interactions with the community to cement these practices.

- **Diversify candidates for the POST Council**

The POST council has an important place among police leadership, a significant role in police training, and a strong overall influence on law enforcement culture in Utah. There are fourteen POST council positions that are appointed by the Governor who serve for four years. This means 3-4 possible vacancies each year. It is recommended that diverse and qualified candidates be appointed to serve on this important policy board, particularly individuals who will prioritize cultural humility and community policing, and those who represent historically systematically marginalized populations. This would increase the likelihood that members of the group(s) affected by the policies that are being developed have an opportunity to participate in the process and provide feedback as to the impact and potential harm.

- **Collaborate on training opportunities with the Utah Commissions dedicated to address and elevate the needs of Multicultural Communities to state leaders**

Training in how to work with multicultural populations is often more effective when the trainers are a part of those populations. However, the POST division reports that it often has difficulty finding trainers who come from these communities. The Multicultural Commission and the Utah Martin Luther King Jr. Human Rights Commission can recommend qualified consultants that specialize in Race Relations, Diversity, Equity, Inclusion, Anti-Racism, Implicit Bias, and Community Reconciliation. In addition, several of the commission members are expert trainers on these topics and could participate on panels and assist in convening community dialogues between constituents and law enforcement.

ENSURE EFFECTIVE AND IMPARTIAL INVESTIGATIONS OF CRIMINAL JUSTICE ABUSES

BACKGROUND

In a July 2020 op-ed by Mariame Kaba & Andrea Ritchie about the killing of Breonna Taylor, the authors call for officers to be prosecuted; but they also write "collective responses rooted in arrests and prosecution are likely to lead to dead ends and deep disappointments."[149] Our communities recognize that prosecuting more officers is not the end goal. Making more arrests and putting more people in prison is not going to fix a broken system. However, while not the solution, repairing trust with our communities will necessitate ensuring fair and impartial investigations when injustice does arise.

It is difficult to ascertain just how often these egregious acts occur, as there is no national dataset for police misconduct. State agencies are also often reluctant to release statistics on criminal justice abuses, making these acts even difficult to track at the state level.[150] From what we have been able to determine, from data compiled by Bowling Green University, law enforcement officers kill approximately 1,000 people nationally every year. Since 2005, only 121 officers have been arrested on charges of murder or manslaughter, with only 44 of those being convicted.[151]

If state agencies kept track of the disciplinary history of officers, cases such as the killing of George Floyd may have been prevented. In the Floyd case, the officer had received 18 complaints against him even before he put his knee on Floyd's neck.[152] Even officers who are fired for misconduct are frequently rehired, such as in the case of Tamir Rice. The police officer in Cleveland, Ohio, who fatally shot 12-year-old Tamir Rice in 2014 had previously resigned from another police department after it had deemed him unfit to serve.[153]

Police misconduct is not the only area of law enforcement with a dearth of available data. Across the country, there is a lack of high-quality data for policing and crime. This is primarily because relatively little data is being collected in the first place; and when it is collected, it is not collected in a standardized way. James Comey, then director of the FBI, succinctly summed up the situation when he said: "You can get online today and figure out how many tickets were sold to [the movie you] saw this weekend... The CDC can do the same with the flu. It's ridiculous — it's embarrassing and ridiculous — that we can't talk about crime in the same way, especially in the high-stakes incidents when your officers have to use force."[154]

This insufficiency of data leads to two problems. First, it is difficult to know for sure where and to what degree racial disparities exist among various agencies. For example, it may be the case that an individual agency has a large bias when it comes to stopping and searching Black people, but little-to-no bias when it comes to use of force. If this were the case, with weak data, an agency might end up focusing their anti-bias efforts on the headline-grabbing problems of use of force bias, which, for them, would be focusing their efforts in the wrong direction.

The second problem of insufficient policing data is that not only can we not identify the problem, we also don't know which remediation efforts actually work: "It remains unclear which law-enforcement practices are actually best, largely because of a lack of data and science. 'We're operating in the dark about what are the most effective strategies, tactics and policies to move forward with,' [one expert] says."[155]

Beyond self-reporting by police agencies, efforts to enhance accountability in officer conduct have been suggested through use of body-worn cameras. Studies suggest that increased use of body-worn cameras can reduce the likelihood of force being used by officers by roughly half, and drastically reduce complaints against officers. As this is a relatively new field of study, overall results have been mixed, but do suggest that the increased use of cameras also need to be coupled with effective changes in policy to see greater impact.[156]

The importance of the relationship between body cameras and the policies that surround them is further underscored by the ACLU who, in 2015,

released an updated report on body cameras, the title of which states "With Right Policies in Place, a Win For All." With a good set of policies that balance the observance of accountability & transparency with the observance of privacy, body cameras can, as the ACLU says, "ensure they protect the public without becoming yet another system for routine surveillance of the public."[157]

With the addition of more impartial data around policing, accountability could be increased through more impartial investigations. Impartial investigations would also require two things: organizational independence and individual objectivity.

Organizational independence is effectively achieved when the investigators report to a level higher than, or separate from, the individuals being investigated. When proper reporting structures are in place, investigators have an easier time accessing people or documents necessary for the investigation and are less likely to be pressured to alter or limit their findings due to threats from superiors. Individual objectivity is effectively achieved when individual investigators are not biased by competing personal or professional interests; this can often be enhanced through greater availability of data.

Individual objectivity and organizational independence are still goals and not reality in many cases of law enforcement misconduct. Efforts have been made to improve investigations, but there is still a need for progress. Nationwide calls for law enforcement reform have been spurred by a perceived lack of accountability for officers.

Only with effective and impartial investigations of criminal justice abuses can we begin to improve trust and relationships with our communities.

CURRENT STATUS
INVESTIGATIONS

In Utah, instances of potential criminal justice abuse by law enforcement are investigated at four primary levels:

1. Internal Affairs officers within the agency
2. POST at the state level
3. The District Attorney's office
4. Civilian Review Boards and auditors

As the above levels progress, the investigators become more independent and objective while, at the same time, the potential consequences of their findings, generally, become more severe.

INTERNAL AFFAIRS

Internal affairs is likely to be the least independent or objective.[158] They are less independent because even though they are a separate division of the agency, they are still members of the agency. They are more likely to have personal or professional relationships with those being investigated. However, this lower level of independence does have one advantage: Internal Affairs is the most likely to learn of a potential case of abuse.

In 2020, the legislature passed a law stating that if an officer resigns before an Internal Affairs investigation is completed, and the investigation was for the sort of violation POST has the authority to investigate, the agency must report the allegations and any investigation results to POST.[159] However, currently there is no state-wide database for collecting the results of Internal Affairs investigations.

POST

POST is more independent than Internal Affairs because it is not a division of a local law enforcement agency, but rather is a division of the state-wide Department of Public Safety. For this same reason, POST is likely to be more objective. Currently, there is ongoing debate over whether the fact that POST investigators are officers themselves reduces their objectivity. POST has authority to investigate when a peace officer is suspected of:

(a) willfully falsifying any information to obtain certification;

(b) having any physical or mental disability affecting the peace officer's ability to perform duties;

(c) being addicted to alcohol or any controlled substance, unless the peace officer reported the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engaging in conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refusing to respond, or failing to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

(f) engaging in sexual conduct while on duty; or

(g) being certified as a law enforcement peace officer, as defined in Section 53-13-102, and is unable to possess a firearm under state or federal law.

Local agencies are expected to report to POST when any of the above violations are suspected. As of the publication of this report, it is unclear how often local agencies fail to report. The extent of the consequences of a POST determination is loss of peace officer certification. This is a state-wide, but not criminal, consequence.

DISTRICT ATTORNEY'S OFFICE

The district attorney's office is the most independent because the District Attorney is an elected official and part of a different branch of the government. Although, the DA's office does need to maintain working relationships with law enforcement to effectively complete their duties. The DA's office's investigations are limited to suspected criminal activity. Therefore, it does not investigate ethical abuses in law enforcement that do not amount to criminality.

AUDITORS AND CIVILIAN REVIEW BOARDS

Auditors (such as the State Auditor's Office, the Legislative Auditor General's Office, and agency internal auditors) generally have authority to investigate officer misconduct, but they rarely do so since this responsibility falls under Internal Affairs' purview.

Civilian Review Boards are very similar to auditors after a Utah law, established in 2019, limited the powers of civilian review boards.[160] There is some debate over whether civilian review boards offer better or different results than reviews conducted by government officials. One study found "civilian review boards end up agreeing with the police department in almost all instances."[161] While another "found that citizen review boards sustain police brutality complaints at a higher percentage than do the police themselves."[162]

State auditors, legislative auditors, and civilian review boards are about as independent as the DA's office. They are possibly the most objective because they do not need to maintain ongoing professional relationships with law enforcement, and they are not law enforcement officers themselves.

Auditors and civilian review boards in Utah cannot enforce discipline if misconduct is discovered. The extent of their power is to recommend actions to agency management, who have the final say over the penalties the officers receive over these types of investigations.

To aid in potential investigations, Utah has the structure in place for collecting standardized police data in the Bureau of Criminal Identification (BCI). BCI is responsible for establishing a statewide uniform crime reporting system that includes: (a) statistics concerning general categories of criminal activities, (b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and (c) other statistics as required by the Federal Bureau of Investigation.[163] Individual law enforcement agencies must submit their data to BCI on the 16th of each month.[164] These data may only be used for research or statistical purposes and may not contain any information that could reveal the identity of an individual victim or law enforcement officer.[165]

BCI receives the data from the various law enforcement agencies in the state. Individual agencies do not receive any incentive for delivering the data, nor any penalties for failing to report.

In BCI's 2018 Crime in Utah report most agencies participated; resulting in a participation of 98.88% of agencies in the state.[166]

Additional data could be gathered in the form of body cameras. In Utah, law enforcement agencies are not required to use body-worn cameras, but when they do, there are certain laws regarding their use. Some of the laws include:

- Officers must activate their body-worn cameras prior to any law enforcement encounter, or as soon as reasonably possible.[167]
- When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except for the following situations:[168] (1) to consult with a supervisor or another officer, (2) during a significant period of inactivity, or (3) during a conversation with a sensitive victim of crime, a witness, or an individual who wishes to report or discuss criminal activity if the individual being recorded requests deactivation of the camera, and the officer believes the value outweighs the cost.
- If a member of the public requests a body-worn camera recording, the agency must provide the recording within 10 business days, unless release of the records: (1) reasonably could be expected to interfere with enforcement investigations or proceedings,[169] or (2) would create a danger of depriving a person of a right to a fair trial or impartial hearing.

RECOMMENDATIONS

- **Mandate that law enforcement agencies complete all internal investigations of alleged officer misconduct and require that sustained allegations are presumptively "public" under the Utah Governmental Records Access and Management Act (GRAMA)** [170]

"Media accounts of police officers who have been fired from a law enforcement position in one city due to misconduct only to find work as a police officer in another city have raised interest in what can be done to prevent what some call 'wandering officers.'" [171] "The Utah Legislature could require agencies to complete all investigations of misconduct, regardless of whether the officer leaves employment before the investigation is complete, and it could amend GRAMA to mandate transparency of those findings for the benefit of both the public and future employers." [172] In order for this critical accountability measure to truly be effective, impartial and fair investigations must be both undertaken and concluded.[173]

- **Create a searchable statewide database for officers with sustained charges of excessive force, dishonesty, discrimination, or misconduct toward others based on any protected class, and make the records presumptively "public" under GRAMA** [174]

"Police disciplinary records are secret and concealed by law, making it virtually impossible for the public to find out what an officer did wrong. What's more, each department can have a different records retention policy. Some departments allow officers to merely ask for their disciplinary records to be destroyed. Others automatically purge the records after a certain amount of time." [175]

In addition, there is no single database of police misconduct that prosecutors can review to discover and share impeachment information with defense attorneys, leaving prosecution agencies to gather what information they can independently.[176] "This becomes even more problematic when an officer leaves one agency to avoid a misconduct investigation and ends up committing similar misconduct in a different jurisdiction. The Utah Legislature could create a searchable statewide database to help ensure that problematic officers do not simply move from one agency to another while simultaneously protecting the due process rights of defendants across the state. Such a database and associated revisions to GRAMA to make underlying disciplinary records presumptively public would also further the dual goals of promoting transparency and increasing trust in law enforcement."[177]

- **Empower Civilian Review Boards**

The U.S. Commission on Civil Rights, in its 2018 report on the use of force by police, observes that "many policing experts advocate for [civilian review] boards, believing that they can help foster police accountability through their independent authority to investigate and audit departments facing allegations of abuse, including unconstitutional use of force, unauthorized detentions or arrests, or racial profiling."[178]

In 2019 H.B. 415 successfully passed, "prohibiting a municipality from establishing a board or committee with certain powers over a police chief."[179] Under this law, civilian review boards that have disciplinary power cannot exist, which significantly reduces the stake that a community can have in their local law enforcement. "The Utah Legislature could repeal HB 415, or otherwise amend Utah Code Title 10 Chapter 3, to empower local elected officials to make policy choices that work for their communities."[180]

- **Mandate the collection and public reporting of law enforcement data**

In an effort to improve knowledge around law enforcement practices, the Center for Policy Equity has released their Toolkit for Equitable Public Safety.[181] This Toolkit lists 53 data points that ought to be collected by law enforcement related to stops and searches, use of force, in-custody deaths, and interactions with non-English speakers. The expansion of data collection efforts such as these could increase accountability, as well as better guide reform efforts.

- **Require the wearing of body cameras for all law enforcement agencies in Utah**

Much of the existing law for when body cameras are worn encourages the harmony between transparency, accountability, and privacy. However, this is only effective in agencies that do implement cameras. In any case that a camera is not worn, there is limited assurance of transparency and accountability.

In their guide on implementing body-worn camera programs, the Police Executive Research Forum offers a number of considerations to make when incorporating cameras into departments.[182] Of those, factors include: when to record, police consent to record, data storage and retention, cost, and potentially one of the most crucial, the management of expectations, amongst others.

The report goes on to highlight several common practices regarding body-worn cameras, many of which can be found below:
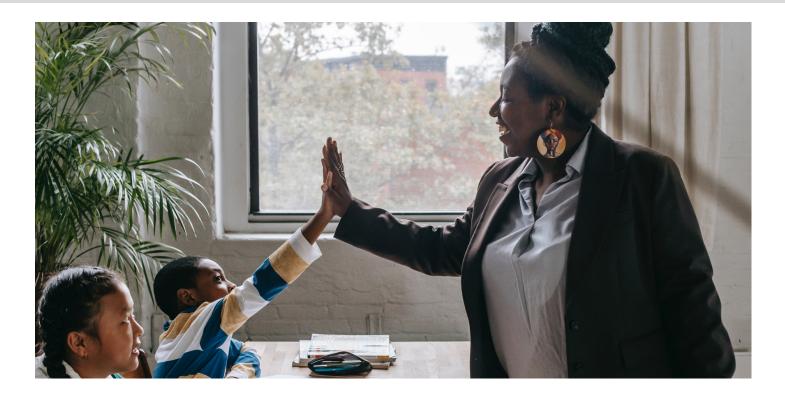
- Requiring officers to activate their cameras when responding to calls for service and during law enforcement-related encounters and activities, such as traffic stops, arrests, searches, interrogations, and pursuits (When to Record)
- Encouraging, but not requiring officers to inform civilians when they are recording in jurisdictions where it is not required, i.e. one-party consent states (of which, Utah is one) (Consent to Record)
- Explicitly prohibit editing of footage, state who will have access, create an auditing system and have a backup (Data Storage and Retention)
- Setting shorter retention times for non-evidentiary footage to cut down on data storage costs (Data Storage and Retention, Cost)
- Holding officers accountable regardless of if they are able to review the footage or not (Managing Expectations)

- **Require the release of body worn camera video within 5 days of the incident**

Currently, people can only request footage if they are aware of the incident, and if they are successful, 10 days of waiting can create strain for the public. In the aftermath of George Floyd's murder and the nationwide demonstrations it triggered, several legislators and governors took swift action in creating greater transparency by mandating the release of BWC video in less than 10 days.[183] For example, on June 15, 2020, Connecticut's Governor Ned Lamont declared that state police should release BWC video within four days of the recorded incidents.[184]

In July 2020, the D.C. Council passed, and Mayor Muriel Bowser signed an emergency resolution that mandated public release of all BWC recordings of the D.C. Metro Police within five days.[185] Utah can move to standardize the release of footage within 5 days in line with other states striving towards police reform and increased accountability and transparency. It is important to ensure, however, if unable to release body camera footage within the recommended time frame, to increase trust with communities, there needs to be clarification to the threshold in which the publication of footage reasonably could be expected to interfere with enforcement investigations or proceedings.

Our current system of education and law enforcement disproportionately impacts communities of color. In our education system, students of color face disempowering learning environments, engage with teachers who do not share in their culture, and follow a curriculum that often leaves out the history of their ancestors. Historically, the practice has been to discipline these students who do not engage with the school culture or push them out of the school system entirely through the increased use of law enforcement.

For those who graduate, or are pushed out of, an inequitable school system, they face an equally discriminatory system of law enforcement. People of color are more likely to be arrested, prosecuted, and victims of police misconduct. These are not isolated cases, but continually documented to be true on both a national and local level. The pure scope of the issue should prove this is not due to the moral failings of individual officers; rather the product of a broken system that was not built to work for communities of color.

As a state, we have recently affirmed that racism continues to impact our Black and Brown communities daily. We need to continue to build upon this moment, ensuring we turn these words into action. Our communities should not have to continue to struggle against systemic forces that are beyond any one individual's control. In order to do so we need to work together, people of color and allies alike, to make Utah an equitable, prosperous state that we all know it can be.

There are many organizations that are already working to advance this mission of a more equitable education and law enforcement system. In the area of law enforcement reform, ACLU of Utah, local Black Lives Matter Chapters, The NAACP Salt Lake and Ogden Branch, the Utah Black Roundtable, the Utah Juvenile Defenders Attorneys Office, Voices for Utah Children, Comunidades Unidas, and the Utah Commission on Criminal and Juvenile Justice (CCJJ), are among many illuminating and striving for police reform. In education, the Advisory Committee on Equity of Educational Services for Students (ACEESS), Alliance for a Better Utah, Centro de la Familia, Salt Lake Education Foundation, University Neighborhood Partners, and school district educational equity coordinators are just some who contribute to the calls for change. Community buy-in, and the capacity to create change exists in Utah. We feel hopeful that so far, we have witnessed vast stakeholder commitment to engage in difficult dialogues that will bring about needed change. What we need now is to continue developing an organized effort to bring these disparate systems and agencies together to implement action towards systemic transformation.

Changing large systems such as education and law enforcement will be neither easy nor quick. While our communities have seen some success in transforming these systems so far, there needs to be a long-term commitment of resources and time from the state to assist in achieving our shared community goals. This report is not intended to be the end of a conversation, but rather a continuation towards the struggle for community healing, understanding, truth telling, reconciliation, justice, and our commitment to create spaces that engage community voices to help form and frame the policies that most impact them and their loved ones. We look forward to cultivating relationships and partnerships in this and all efforts that elevate the concerns of historically and systematically marginalized communities so that we can better address gaps and create an inclusive Utah for all.

COMMUNITIES OF COLOR KNOW WHAT THEY NEED, WE JUST NEED TO BE WILLING TO LISTEN.

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